

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2135 of 1998

with

CIVIL APPLICATION No 5876 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and

MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

GSRTC

Versus

POPATBHAI RAMJIBHAI BHIMANI (DELETED)

Appearance:

MRS VASAVDATTA BHATT for Petitioner

MR SANDEEP N BHATT for Respondent No. 2

NOTICE UNSERVED for Respondent No. 6

CORAM : MR.JUSTICE J.N.BHATT and

MR.JUSTICE A.M.KAPADIA

Date of decision: 22/04/99

ORAL JUDGEMENT (Per J.N.Bhatt, J.)

In this appeal under section 173 of the Motor Vehicles Act, 1988, the appellant-original opponent No.2, Gujarat Road Transport Corporation (GSRTC) has challenged the

judgment and award passed on 26.2.98 by the Motor Accident Claims Tribunal, Morvi, in MACP No.337/89, whereby the Tribunal awarded compensation of Rs.6,21,980/- to the claimants.

According to the case of the claimants, deceased Jayanti was going on a motor-cycle and when he reached near village Vavdi, Morvi Shanala Highway, ST bus bearing No.GRR-8949 with full speed came and dashed against the motor-cycle, as a result of which, deceased was thrown off the motor-cycle and he sustained serious injuries. He was admitted in the hospital and thereafter he was transferred to the Ahmedabad Civil Hospital and during the period of treatment, in Ahmedabad hospital, he succumbed to the injuries on 18.5.89. The deceased was the earning member of the family and he was maintaining the claimants. The deceased was serving with Bhavpar Co-operative Society and was drawing Rs.1200/-. The deceased was also using his tractor for himself and earning an amount of Rs.3000/- per month from it. The deceased was also doing agricultural work and he was earning an amount of Rs.1 lac from the agricultural produce. Therefore, it was the case of the claimants that the deceased was earning an amount of Rs.5,000/- per month. The deceased was young, hale and hearty.

After considering the facts and circumstances and the evidence on record, the Tribunal reached to the conclusion that the death of the deceased Jayanti occurred on account of the rash and negligent driving on the part of the driver of the ST bus to the extent of 75 per cent and the contribution of the deceased who was going on the motor-cycle came to be assessed at 25 per cent. The Tribunal, after considering the earning of the deceased on the basis of the evidence on record awarded different amount under the different heads and thereafter awarded consolidated an amount of Rs.8,27,640/- after deducting 25 per cent contribution of the deceased in the happening of the unfortunate accident, awarded an amount of Rs.6,21,980/- with cost and interest at the rate of 15 per cent per annum from the date of application till the payment. That is how the ST Corporation has come up before us in this appeal.

After having taken into consideration the overall picture emerging from the record of the present case and the certified copies of the evidence which were supplied to us in course of hearing and rival submissions, we are fully satisfied that the amount awarded by the Tribunal is on a little higher side. Therefore, the ends of justice would be fully satisfied an the amount of

Rs.77,000/- is reduced from the total amount awarded so as to make it quite just and reasonable in the facts and circumstances of the case. However, the rate of interest awarded will remain unchanged.

The amount of Rs.25,000/- deposited before this Court along with this shall be transmitted to the Tribunal concerned for being disbursed and invested by the Registry, forthwith. The amount of award shall be disbursed and invested in the following manner:

1. Ten per cent of the total amount shall be paid to the widow of the deceased, original claimant No.3 by an account payee cheque after due verification.
2. Out of the remaining amount, 40 per cent each shall be deposited in the name of widow and the minor daughter of the deceased original claimants Nos.3 & 4 and 20 per cent shall be deposited in the name of mother of the deceased, in any nationalised bank or in any other Government security yielding higher rate of interest, initially, for a period of five years and the interest which shall accrue periodically, therefrom shall be paid to the claimants.

In the result, the appeal stands partly allowed. An amount of Rs.77,000/- (Rupees seventy seven thousand only) is required to be deducted from the total amount of award and accordingly it is deducted. Revised award shall be drawn as stated above. Appeal stands partly allowed to the aforesaid extent with no order as to costs.

In view of the order passed in main appeal, the Civil Application does not survive. Accordingly, this Civil application stands disposed of. Rule discharged.

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